



## **POLICY AND ADMINISTRATIVE PROCEDURES**

### **Manual of Policies and Procedures**

#### **Title**

## **TEMPORARY LEAVES FOR ADULT OFFENDERS**

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-10-9-1 <i>et seq.</i> IC 35-38-3-6 IC 35-44-3-5	00-02-301 01-04-101 01-04-103 02-01-110	ACA: ACI: 3-4389, 3-4390, 3-4392, 3-4427, 3-4444

#### **I. PURPOSE:**

The purpose of this policy and its administrative procedures is to provide a mechanism for criminal offenders committed to the Department of Correction to be a granted temporary leave for specific purposes during their period of incarceration.

#### **II. POLICY STATEMENT:**

The Department of Correction recognizes that in order to assist offenders in the Re-Entry process, it may be necessary for some offenders to be released temporarily from a facility. Requests for such leaves may be submitted by the offender, by Department staff or other persons involved in the offender's re-entry into the community.

Temporary leaves for criminal offenders may be granted for the following purposes:

- A. To visit a close relative who is seriously ill;
- B. To attend the funeral of a close relative;
- C. To obtain medical, psychiatric or psychological services;
- D. To make arrangements for employment, admittance to an educational or vocational training institution or program or participation in any other activity authorized by the Department;
- E. To secure a residence or make other preparations for release or discharge;

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- F. To appear before any group whose purpose is to obtain an understanding of crime or corrections, including appearances on television or radio;
- G. To return home or any other place authorized by the Department during what appears to be the offender's terminal illness;
- H. To be released from the Department of Correction prior to the offender's Earliest Possible Release Date in accordance with the Department's schedule for the release of adult offenders; or,
- I. For any other purpose the Department determines to be in the best interest of the offender and the public.

All temporary leaves, other than for the purpose indicated in G., shall be for a period of five (5) days or less.

In order to obtain such a leave, a request must be submitted stating the reason for the request and providing any information required by the facility to make a decision. The leave must be approved by the Department and the offender given a written authorization.

Unless the offender has been assigned to a minimum security classification, the offender must be accompanied by a staff person while on the leave.

### **III. DEFINITIONS:**

For the purpose of these administrative procedures, the following definitions are presented:

- A. **Immediate Family Member:** The immediate family of an offender is his/her father, mother, siblings, spouse, children, grandparents, grandchildren, aunts, uncles, and legal guardians including those with a "step," "half" or adoptive relationship and those persons with the same relationship to the offender's spouse.
- B. **Temporary Leave (TL):** A period of time in which an offender is authorized by the Facility Head to leave the facility, either escorted by staff or unescorted, including temporary passes issued by a Work Release Facility.

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### **IV. CRITERIA AND CONDITIONS:**

- A. An offender incarcerated in a Department facility may be granted a temporary leave for the purposes indicated in the Policy Statement.
- B. All temporary leaves shall be limited to five (5) calendar days or less, except for those leaves granted for the purposes indicated in II. G or to offenders assigned to the Work Release Program.
- C. An offender may be considered for temporary leave pursuant to II. D or E either escorted by staff or unescorted if the offender is classified as Security Level 1 and assigned to a Work Release Facility (on Work/Study Release status).
- D. An offender shall be accompanied by Department staff or other custodial agent(s) (e.g., deputy sheriff, police officer, etc.) during the temporary leave unless the offender is assigned to a Level 1 Facility or assigned to a Work Release Facility (on Work/Study Release status).
- E. The following offenders are not eligible for temporary leave:
  - 1. Offenders housed on Death Row;
  - 2. Offenders who have more than 7 ½ years to earliest projected release date (EPRD);
  - 3. Offenders in Disciplinary or Administrative Segregation; and,
  - 4. Offenders with a history of assaultive behavior (As determined by convictions involving weapons and/or injury to another person in current or prior criminal record).
  - 5. Offenders assigned to Level 1 or Work Release facilities will normally be considered eligible to apply for a temporary leave unless special circumstances are present which would raise concerns regarding safety and security.

In cases in which unusual circumstances exist, the Facility Head shall contact the appropriate Executive Director of Adult Facilities or Director of Re-Entry if the offender is in a Work Release program prior to making a final determination on the temporary leave request. The Executive Director or Director/Re-Entry shall discuss any questionable circumstances with the Deputy Commissioner of Operations and/or Deputy Commissioner of Re-Entry.

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F. No offender will be forced to participate in a temporary leave.

### **V. CRITERIA FOR APPROVAL OF TEMPORARY LEAVE REQUEST:**

When a Facility Head receives a request from either an offender or another person for a temporary leave, the Facility Head shall consider the following factors when rendering a decision on the request:

- A. Criminal History: Staff shall determine whether the offender has committed any crimes against a person or other serious crimes which could create unusual concerns, attract undue public attention or depreciate the seriousness of the offense if a temporary leave is granted. If it is determined that any of these conditions exist, a temporary leave shall not be granted.
- B. Alcohol/Controlled Substance History: Staff shall determine whether the offender has had any criminal convictions or findings of guilt in a disciplinary action while incarcerated involving the use of alcohol and/or controlled substances. If there have been any convictions or findings of guilt within the previous two (2) years, the offender shall not be granted a temporary leave.
- C. History of Escapes: Staff shall determine whether the offender has any escape or attempted escape convictions or findings of guilt in a disciplinary action while incarcerated with the department within the last five (5) years. If such convictions or findings of guilt are present, the offender shall not be granted a temporary leave.
- D. Basis for Request: The Facility Head shall determine whether the reason for the temporary leave request is appropriate, based on II above for a temporary leave and whether the offender meets all of the criteria.
- E. Offender's Responsibility: Staff shall determine whether it appears that the offender is responsible enough to meet the conditions of a temporary leave and can successfully complete it. Offender responsibility may be determined by reviewing the offender's behavior and work record, as well as any other information that will indicate the offender's adjustment while at the facility.
- F. Facility Resources: The date and time of the proposed temporary leave shall be reviewed and a determination made as to whether the facility has sufficient resources (e.g., available staff and vehicles) to grant the temporary leave and still maintain adequate security.

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### **VI. TEMPORARY LEAVES FOR THE PURPOSE OF RELEASING AN OFFENDER PRIOR TO THE OFFENDER'S EARLIEST POSSIBLE RELEASE DATE:**

In accordance with the administrative procedures for Policy 01-04-105, "Adult Offender Releases," an offender may be released prior to the offender's Earliest Possible Release Date (EPRD) in accordance with a schedule of releases approved by the Department. In all cases where an offender is released prior to his/her EPRD, except when the release is due to a modification of the offender's sentence or the offender is released to a Community Transition Program (CTP), the offender shall be released on a Temporary Leave for those days up to the offender's actual EPRD, no matter whether the offender is picked-up by family or friends or transported by the Department to the approved placement.

In cases where the offender is being released prior to his/her EPRD, the offender will be released on a Temporary Leave. The offender will not be required to submit an application for a Temporary Leave for this purpose. Nor shall the offender be required to meet the criteria for a Temporary Leave, as indicated above. However, staff shall prepare a State Form 8522, TEMPORARY LEAVE AGREEMENT FOR CRIMINAL OFFENDERS. The offender's Unit Team staff shall be responsible for ensuring that it is explained to the offender that he/she shall be on Temporary Leave during the period until his/her EPRD. Additionally, staff shall ensure that the rules of the Temporary Leave are explained to the offender and the offender signs the State Form 8522. In cases where the offender refuses to sign State Form 8522, staff shall sign the form indicating that the offender refused to sign the form and another staff person shall witness the form. Staff shall explain to the offender that refusing to sign the form will not stop the offender from being released prior to his/her EPRD nor will it impact the offender's responsibility to follow the Temporary Leave rules. Failure to abide by the Temporary Leave rules will result in the offender being returned to the facility and a Disciplinary Hearing.

A copy of the signed State Form 8522 shall be given to the offender which will authorize the offender being out of the facility and a copy shall be sent to the Parole or Probation Office that will be supervising the offender upon his/her release, if applicable. Also, a copy shall be filed in the offender's packet.

### **VII. APPLICATION PROCESS:**

#### **A. Offender Initiated Request For Temporary Leave:**

1. An offender who seeks a temporary leave for any purpose cited in II above shall:

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- a. Obtain State Form 7797, APPLICATION FOR TEMPORARY LEAVE FOR COMMITTED OFFENDERS, from the supervisor of Classification or designee;
  - b. Complete State Form 7797, and,
  - c. Submit State Form 7797 to the Supervisor of Classification or designee.
2. The receiving staff person shall:
  - a. Explain the temporary leave process and the offender's obligations;
  - b. Provide the requesting offender with State Form 7797, together with instructions and assistance as necessary for the completion of this form;
  - c. Receive State Form 7797 from the offender;
  - d. Review State Form 7797 for:
    - (1). Completeness; and,
    - (2). Satisfaction of the applicable criteria;
  - e. Verify the reason for the request and indicate the findings on State Form 7797;
  - f. Determine, in the case of a request for a bedside or funeral visit, whether the offender has any other relatives committed to the department who might be seeking a temporary leave for the same purpose and, if so, recommend what actions should be taken to ensure the safety and security of the facility and those persons involved (Generally, more than one [1] offender shall not be permitted to make a bedside or funeral visit to the same person at the same time);
  - g. Recommend approval or denial;
  - h. Complete the applicable portion of State Form 7797; and,

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- i. Submit completed State Form 7797 to the Facility Head in a timely fashion.
  3. The Facility Head shall:
    - a. Receive and review State Form 7797;
    - b. Approve or deny the request;
    - c. Complete the applicable portion of State Form 7797;
    - d. Forward a completed copy of State Form 7797 to the offender;
    - e. Cause appropriate action to be taken for the offender to be released on temporary leave upon approval of the request; and,
    - f. File the original State Form 7797 in the offender's facility packet.
- B. Non-Offender (Staff Or Other Person) Initiated Request For Offender Temporary Leave:

Any staff or other person requesting a temporary leave for an offender for any purpose cited in II above, shall contact the offender's counselor who shall follow VII A above.

Operational procedures shall be developed by the facility to ensure that the appropriate application process is available and that all reviews and approvals are conducted in a timely and fair manner.

### **VIII. TEMPORARY LEAVES (PASSES) FOR OFFENDERS ASSIGNED TO THE WORK RELEASE PROGRAM:**

- A. Offenders assigned to the Work Release Program are eligible for temporary leaves indicated in II above. Additionally, these offenders may be granted short temporary leaves for purposes related to the operation of the Work Release Program, such as to seek employment; travel to and from an approved job or educational program; to make arrangements for school attendance; to obtain medical/psychiatric/psychological services; to attend weekly religious services; or, to reacquaint the offender with his/her family and home environment.

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- B. Temporary leaves granted for the following reasons shall be limited to the length of time indicated unless special permission is granted by the Facility Head:

1. Job seeking/education (must be for a pre-scheduled appointment with a potential employer or educational counselor). 5 hours or less
2. To attend religious services One (1) pass for up to three (3) hours per week, to include travel time to and from services.
3. Home Placement Visitation One (1) pass per seven (7) days for up to:
  - 8 hrs., if within 90 days of EPRD;
  - 24 hrs., if within 60 days of EPRD;
  - 48 hrs., if within 30 days of EPRD.

Generally, all passes of less than eight (8) hours will commence during normal working hours and the offender must return prior to 9:30 p.m. The length of time for temporary leaves for the purposes indicated in these procedures shall be based upon the amount of time needed to accomplish the intended purpose and the distance the offender must travel. Temporary leaves, normally, may not be taken in conjunction with other leaves.

The Facility Head may extend the length of time for any temporary leave with a normal duration of less than eight (8) hours. These leaves shall not exceed eight (8) hours and require verification of the need for an extension prior to the approval of the leave.

- C. In order to be eligible for a temporary leave for a home placement visitation (VIII. B. 3, above), an offender shall:

1. Be current with all obligations;



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2. Have no pending conduct reports;
3. Have completed all assigned extra duties;
4. Have no restrictions from either Informal or Formal Conduct Reports; and,
5. Be currently employed and have worked a minimum of thirty (30) hours the previous week.

Operational procedures shall be developed by each Work Release Facility to ensure the proper implementation of these administrative procedures.

### **IX. RELEASE PROCESS:**

- A. Offenders approved for temporary leave shall be informed of the terms and conditions of the temporary leave, including:
  1. Escort as applicable;
  2. Restraint equipment as applicable;
  3. Appropriate clothing for the leave;
  4. State Form 8522, TEMPORARY LEAVE AGREEMENT FOR CRIMINAL OFFENDERS (to be completed for unescorted leave only);
  5. Travel is restricted to and from the approved location; and,
  6. Offender shall remain the State of Indiana.
- B. The offender shall sign State Form 8522, prior to leaving the facility (completed for unescorted leaves only).

Operational procedures shall be developed to ensure that the offender is released for a temporary leave in accordance with these administrative procedures.

### **X. RETURN PROCESS:**

The Facility Head shall develop operational procedures for the offender's readmission to the facility from a temporary leave. These operational procedures shall include:

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- A. Receipt of the offender upon return to the facility;
- B. Verification of the offender's return time;
- C. A search of the offender and any property in the offender's possession at the time of return;
- D. An update of the Offender Information System (OIS) reflecting the offender's return; and,
- E. The procedures for reporting an offender's failure to return from the temporary leave and an offender's violation of the conditions of the temporary leave.

### **XI. COST OF TEMPORARY LEAVE:**

Adult offenders who are approved for any temporary leave, except those initiated by the Department, such as for medical appointments, for court ordered or other releases, shall be responsible for the cost to the Department of the temporary leaves if staff is required to transport the offender to the designated location.

In order to determine the cost to the offender, the facilities shall use the hourly rate, without benefits, for the Custody Staff assigned to the transportation and multiple that rate times the total time for the transportation. The facilities shall use the existing state rate for mileage and determine the total number of miles and add this amount to the total salary amount to determine the total cost of the transportation for the temporary leave.

When the offender submits the Application for Temporary Leave for Committed Offender, the offender's counselor and/or Unit Team staff shall advise the offender whether the temporary leave would be escorted or not. If the Temporary Leave is approved and is to be escorted, the offender will be advised that he/she will be responsible for the cost of the transporting him/her to the approved destination. Staff shall determine the mileage for the trip and the approximate number of hours involved, as well as the number of staff that will be required to accompany the offender. Using the numbers above to determine the cost, staff shall advise the offender as to the cost which will be charged for the Temporary Leave.

Staff shall explain to the offender that if the offender does not have sufficient funds in his/her Inmate Trust Fund account, if the Temporary Leave is approved, a hold will be placed on the offender's account until the facility is reimbursed for the cost of the Temporary Leave. The offender shall be advised that a Temporary Leave shall not be denied solely on the grounds that the offender does not have

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sufficient funds to pay for the Temporary Leave. The offender will be required to sign a "Request for Remittance" for the cost of the Temporary Leave. If the offender refuses to sign the "Request for Remittance" the Application for Temporary Leave shall be denied. If the offender has sufficient funds in the Inmate Trust Fund account to pay for the Temporary Leave, these funds shall be withdrawn from the offender's Inmate Trust Fund account when the offender's Application is approved. If the offender does not have sufficient funds in the Inmate Trust Fund account, a hold shall be placed on the offender's account effective with the approval of the application. If a hold is placed on the offender's account, the offender shall not be allowed to spend any money in the Inmate Trust Fund account except to pay for approved personal hygiene items, including over-the-counter medications, medical co-payments and court ordered fees, fines or restitution, including restitution ordered by a Disciplinary Hearing Body.

Additionally, the offender shall be advised that if he/she is released prior to reimbursing the facility for the cost of the Temporary Leave, the offender shall still be responsible for the reimbursement and the Department may pursue a civil action to recover these costs.

### **XII. APPLICABILITY:**

These administrative procedures are applicable to all facilities housing adult offenders and all offenders assigned to those facilities.

\_\_\_\_\_  
Signature on File

Edwin G. Buss  
Commissioner

\_\_\_\_\_  
2/16/09

Date